

## Eligibility for Competitions

This document is intended for HHS officials functioning as challenge managers to guide them through issues associated with the eligibility of federal entities, federal employees, federal grantees and federal contractors to compete in HHS-sponsored challenge competitions. The HHS Innovation Council developed this document in collaboration with the Office of the Assistant Secretary for Financial Resources and the HHS Office of General Counsel. It will be posted on the HHS COMPETES Website which provides a set of resources for HHS challenge managers on the development of challenges. The FAQs discussed herein apply to HHS competitions conducted under the authority of the America Competes Act (Pub. L 111-358, Jan. 4, 2011) 15 U.S.C. § 3719. Other HHS non-COMPETES Act competitions are strongly encouraged to follow this policy.

**Question:** Are Federal entities eligible to receive prizes under a Competes Act Competition?

**Answer:** No. The Competes Act establishes that a federal entity is not eligible to receive a prize under a Competes Act Competition. 15 U.S.C. 3719 (g)(4).

**Question:** Under what circumstances are federal employees eligible to compete in HHS-sponsored challenge competitions?

**Answer:** The Competes Act establishes that to be eligible for a prize an individual “may not be a Federal employee acting within the scope of their employment.” 15 U.S.C. 3719 (g)(4). Also, HHS Staff Division (STAFFDIV) employees are only allowed to compete for challenges and competitions that are offered by HHS Operating Divisions (OPDIVs) or a STAFFDIV other than their own. HHS OPDIV employees may compete for challenges and competitions that are offered by: (1) an HHS STAFFDIV or an OPDIV other than their own; and (2) their own OPDIV if they are not in the reporting chain of the OPDIV award approving official, which may only be the OPDIV head or one of their direct reports. In addition, HHS employees may not work on their applications or submissions during assigned duty hours, and may not use Federal facilities or consult with a Federal employee except as permitted under Section 24(h) of the Act.

**Question:** Under what circumstances are federal grantees and federal contractors eligible to compete in HHS-sponsored challenge competitions?

**Answer:** Federal grantees may not use Federal funds to develop COMPETES Act challenge applications unless consistent with the purpose of their grant award and specifically requested to do so due to competition design, and as announced in the Federal Register. If a grantee using Federal funds wins the competition, the award needs to be treated as program income for purposes of the original grant in accordance with applicable OMB Circulars.

Federal contractors may not use Federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act challenge submission. Costs associated with such activities are unallowable and are not allocable to Government contracts.